



Rep. George Scully Jr.

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09400SB2664ham003

LRB094 19033 HLH 58153 a

1 AMENDMENT TO SENATE BILL 2664

2 AMENDMENT NO. _____. Amend Senate Bill 2664 by replacing
3 line 6 on page 1 through line 21 on page 2 with the following:

4 "(70 ILCS 2405/8) (from Ch. 42, par. 307)
5 Sec. 8.

6 (a) The sanitary district may acquire by purchase,
7 condemnation, or otherwise all real and personal property,
8 right of way and privilege, either within or without its
9 corporate limits that may be required for its corporate
10 purposes. If real property is acquired by condemnation, the
11 sanitary district may not sell or lease any portion of the
12 property for a period of 10 years after acquisition by
13 condemnation is completed. If, after such 10-year period, the
14 sanitary district decides to sell or lease the property, it
15 must first offer the property for sale or lease to the previous
16 owner of the land from whom the sanitary district acquired the
17 property. If the sanitary district and such previous owner do
18 not execute a contract for purchase or lease of the property
19 within 60 days from the initial offer, the sanitary district
20 then may offer the property for sale or lease to any other
21 person. If any district formed under this Act is unable to
22 agree with any other sanitary district upon the terms whereby
23 it shall be permitted to use the drains, channels or ditches of
24 such other sanitary district, the right to such use may be
25 acquired by condemnation in any circuit court by proceedings as

1 provided in Section 4-17 of the Illinois Drainage Code. The
2 compensation to be paid for such use may be a gross sum, or it
3 may be in the form of an annual rental, to be paid in yearly
4 installments as provided by the judgment of the court wherein
5 such proceedings may be had. However, when such compensation is
6 fixed at a gross sum all moneys for the purchase and
7 condemnation of any property shall be paid before possession is
8 taken or any work done on the premises damaged by the
9 construction of such channel or outlet, and in case of an
10 appeal from the circuit court taken by either party whereby the
11 amount of damages is not finally determined, then possession
12 may be taken, if the amount of judgment in such court is
13 deposited at some bank or savings and loan association to be
14 designated by the court, subject to the payment of such damages
15 on orders signed by the circuit court, whenever the amount of
16 damages is finally determined. The sanitary district may sell,
17 convey, vacate and release the real or personal property, right
18 of way and privileges acquired by it when no longer required
19 for the purposes of the district.

20 (b) A sanitary district may exercise its powers of eminent
21 domain to acquire a public utility only if the Illinois
22 Commerce Commission, following petition by the sanitary
23 district, has granted approval for the sanitary district to
24 proceed in accordance with Article VII of the Code of Civil
25 Procedure. The following procedures must be followed when a
26 sanitary district exercises its power of eminent domain to
27 acquire a public utility.

28 (1) The sanitary district shall petition the
29 Commission for approval of the acquisition of a public
30 utility by the exercise of eminent domain powers. The
31 petition filed by the sanitary district shall state the
32 following:

33 (A) the caption of the case;

34 (B) the date of the filing of the application;

1 (C) the name and address of the condemnee;

2 (D) the name and address of the condemnor;

3 (E) a specific reference to the statute under which
4 the condemnation action is authorized;

5 (F) a specific reference to the action, whether by
6 ordinance, resolution, or otherwise, by which the
7 declaration of taking was authorized, including the
8 date when such action was taken, and the place where
9 the record may be examined;

10 (G) a description of the purpose of the
11 condemnation;

12 (H) a reasonable description of the property to be
13 condemned;

14 (I) a statement of how just compensation will be
15 made;

16 (J) a statement that, if the condemnee wishes to
17 challenge the proceeding, the condemnee shall file
18 objections within 45 days after its receipt of the
19 notice.

20 (2) Within 30 days after the filing of a petition by
21 the sanitary district of its intent to acquire by eminent
22 domain all real and personal property, rights of way, and
23 privileges of a public utility, the sanitary district shall
24 serve a copy of the petition on the public utility and
25 shall publish a notice of the filing of the petition in a
26 newspaper of general circulation in the area served by the
27 sanitary district. The sanitary district shall file a
28 certificate of publication with the Commission as proof of
29 publication.

30 (3) Within 45 days after being served with the notice
31 required by this Section, the condemnee may file objections
32 to the petition with the Commission. All objections shall
33 state specifically the grounds relied upon. All objections
34 shall be raised at one time and in one document. The

1 condemnee shall serve a copy of the objections upon the
2 condemnor within 72 hours after the objections are filed
3 with the Commission.

4 (4) The Commission shall make a determination
5 regarding the petition and any objections to the petition
6 and shall make such orders and decrees as justice and law
7 shall require. The Commission may take evidence by
8 deposition or otherwise and shall entertain oral argument
9 on all objections. The Commission shall make its
10 determination within 105 days after its receipt of the
11 objections of the condemnee, unless the Commission, in its
12 discretion, extends the determination period for a further
13 period not exceeding 6 months.

14 (c) The Illinois Commerce Commission shall approve the
15 taking of any property by a sanitary district under subsection
16 (b), within or outside its boundaries, if it is in the public
17 interest. The taking shall be considered to be in the public
18 interest if the sanitary district establishes by a
19 preponderance of the evidence:

20 (1) that the sanitary district has been in existence as
21 the operator of a wastewater system for at least 20 years;

22 (2) that it will provide wastewater treatment service
23 within the proposed area subject to condemnation at the
24 same level of wastewater treatment service provided
25 throughout the district;

26 (3) that it will provide the wastewater collection,
27 treatment, and disposal at the same or less operational and
28 maintenance volumetric or bulk rate as the public utility
29 whose property is subject to condemnation; and

30 (4) that it is not financially impractical for the
31 public utility to serve its remaining customers who are not
32 in the area subject to condemnation.

33 (Source: P.A. 90-558, eff. 12-12-97.)"; and

1 by deleting line 3 on page 4 through line 8 on page 6.